

VZCZCXRO4429
PP RUEHLMC
DE RUEHLP #2130/01 2201916
ZNY CCCCC ZZH
P 081916Z AUG 06
FM AMEMBASSY LA PAZ
TO RUEHC/SECSTATE WASHDC PRIORITY 0171
INFO RUEHAC/AMEMBASSY ASUNCION 6036
RUEHBO/AMEMBASSY BOGOTA 3354
RUEHBR/AMEMBASSY BRASILIA 7204
RUEHBU/AMEMBASSY BUENOS AIRES 4469
RUEHCV/AMEMBASSY CARACAS 1742
RUEHPE/AMEMBASSY LIMA 1760
RUEHMN/AMEMBASSY MONTEVIDEO 3954
RUEHQT/AMEMBASSY QUITO 4373
RUEHSG/AMEMBASSY SANTIAGO 8939
RUEHUB/USINT HAVANA 0044
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C O N F I D E N T I A L SECTION 01 OF 03 LA PAZ 002130

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E.O. 12958: DECL: 08/09/2016
TAGS: [ECON](#) [PGOV](#) [PREL](#) [BL](#)
SUBJECT: MAS' DRAFT CONSTITUTION

Classified By: Amb. David N. Greenlee for reasons 1.4 (b) and (d).

¶1. (C) Summary: President Morales' Movement Toward Socialism (MAS) party is circulating a draft constitution for the Constituent Assembly, although other drafts, which we have not reviewed, seem to be circulating as well. The draft we have seen, which contains strong socialist and communist notes, calls for a greater state role in the economy, creates a new branch of government to "control" the executive, legislative and judicial branches, and attempts to safeguard the rights of the indigenous. Populist, anti-imperialist rhetoric is strewn throughout the draft, which fails to provide any real detail about key issues such as departmental autonomy, ownership of natural resources, land reform, or religious education. While the draft provides some insight into MAS thinking, it remains far from clear what the final constitution will look like. End summary.

¶2. (C) President Morales' Movement Toward Socialism (MAS) party is circulating a draft constitution for the Constituent Assembly. Embassy contacts who are critical of the MAS note similarities to the Cuban and Venezuelan constitutions and speculate about Cuban/Venezuelan influence in the drafting process. Populist, anti-imperialist rhetoric is strewn throughout. In its first title, the constitution proclaims that "the Bolivian republic makes its own the principles of anti-imperialism and internationalism." It declares solidarity with the third world in light of "the imperialist and neocolonial policy that pursues the limitation or subordination of our people's sovereignty and aggravates oppressive and exploitative economic conditions of underdeveloped nations." Throughout, it refers to the new Bolivian state as "a socialist and communal society."

A NEW ECONOMIC SYSTEM

¶3. (C) The Constitution calls for a greater state role in the economy, providing that the state "organizes, directs and controls national economic activity." It advocates state control of monetary policy and foreign commerce, implying exchange controls on foreign currency. The draft confirms

state ownership and protection of the subsoil, mines, natural resources, forests, and waters, but fails to address nationalization of natural resources. It also declares the means of production community property, providing for state control of factories, businesses and banks that have been "nationalized and expropriated by imperialists, land-owners and the middle class," as well as the communication and transportation industries.

14. (C) The MAS draft also provides for state ownership of all land not owned by small farmers, cooperatives or indigenous communities, implying significant land redistribution and/or state taking of privately-owned land. It prohibits renting or transferring land to foreign states, but is unclear whether this prohibition also applies to foreign individuals. The constitution provides for indemnification for expropriation, and includes extensive provisions to benefit small agricultural producers. Although land reform is thought to be one of the main issues the Constituent Assembly will address, the draft provides few details on that issue.

CHANGES TO DEMOCRATIC INSTITUTIONS

15. (C) The MAS envisions the new Bolivian state to have five separate powers -- a citizens' power, a national assembly, a national executive, the judicial system and the national electoral assembly -- and cites the importance of the independence and coordination of these powers. The only new structure, the citizens' power, a nine-person council with one representative per elected per department, would

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"control" other state powers, conduct audits and manage the public ministry (including the attorney general), human rights ombudsman, the controller general, and the police and armed forces. The draft also makes Bolivia's bicameral Congress unicameral, creating one chamber with 70 representatives elected for five-year terms. The constitution refers to Sucre as the capital of Bolivia, and specifically states that the judicial and legislative branches will be housed there.

16. (C) The MAS also proposes significant changes in the executive and judicial branches. The president would be elected by a simple majority vote, and if no candidate achieved 50 percent plus one of the vote, a runoff would be held between the top two vote-getters. While the draft permits one five-year term for the president without the possibility of re-election, opposition parties believe that the MAS will propose reelection once the Constituent Assembly begins its deliberations August 15. The president will continue to appoint his cabinet, but must consult with social organizations first. In case of natural catastrophes, public calamities, economic emergency, internal unrest or external conflict "that puts the security of the nation at risk," the president, in consultation with the cabinet, may declare a state of emergency in which constitutional guarantees are "temporarily restricted" for up to 150 days depending on the situation. As for the Supreme Court, the MAS would increase the number of justices from twelve to eighteen, and elect, instead of appoint them (two per department). Each justice must hold a law degree and have five years of legal experience. Finally, the MAS would abolish the Constitutional Court as a separate institution and make it a chamber of the Supreme Court.

17. (C) The draft contains no express reference to departmental autonomy, one of the main issues driving the Constituent Assembly. It does, however, mention "political and administrative decentralization," and acknowledges the legal identity of Bolivia's territorial divisions -- indigenous territories, departments, and municipalities -- but does not clearly delineate the powers of each. The

draft sets up additional local government structures, such as departmental and municipal assemblies, which appear to be intended to oversee the prefects and mayors respectively.

INDIGENOUS AND INDIVIDUAL RIGHTS

¶8. (C) The draft devotes a large amount of text to the protection of indigenous rights. It proclaims respect for indigenous communities and their cultures, as well as their right to land, health services, and political participation. Indigenous representation, although not clearly defined, is guaranteed in the National Assembly. The constitution also provides that affected indigenous communities must be consulted regarding the use of natural resources.

¶9. C) The MAS constitution recognizes freedom of expression and press "consistent with the ends of the socialist and communal society." It does not address religious teachings in Bolivian schools, but does cite universal access to education and freedom of religion in separate provisions. The draft provides that the state "recognizes, respects and guarantees freedom of conscience and religion" as well as the right to change one's beliefs or have none. It also imposes upon parents the legal obligation to educate and help their children "prepare for their lives in Bolivia's social-communal society." Likewise, it provides that children must respect and assist their parents.

COMMENT

¶10. (C) While this draft provides some insight into MAS

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thinking, it remains to be seen what will emerge from the Constituent Assembly. Political analysts report that there may be as many as three different "MAS" draft constitutions, and that there is intra-party debate about how far constitutional reforms should reach. It seems likely, however, that whatever the end result, the new constitution will probably reflect some Venezuelan and Cuban influence, and the state will have a much more expansive role in Bolivian society. End comment.

GREENLEE